United Nations A/HRC/RES/39/20

General Assembly

Distr.: General
3 October 2018
English
Original: French

Human Rights Council
Thirty-ninth session
10–28 September 2018
Agenda item 10

Resolution adopted by the Human Rights Council on 28 September 2018

39/20. Technical assistance and capacity-building in the field of human rights in the Democratic Republic of the Congo

The Human Rights Council,

Reaffirming that all States have an obligation to promote and protect the human rights and fundamental freedoms enshrined in the Charter of the United Nations and the Universal Declaration of Human Rights, and to discharge their obligations under the International Covenants on Human Rights and other relevant instruments to which they are parties,

Recalling General Assembly resolution 60/251 of 15 March 2006,

Recalling also Human Rights Council resolutions 5/1 of 18 June 2007, 7/20 of 27 March 2008 and S-8/1 of 1 December 2008,

Recalling further its resolutions 10/33 of 27 March 2009, 13/22 of 26 March 2010, 16/35 of 25 March 2011, 19/27 of 23 March 2012, 24/27 of 27 September 2013, 27/27 of 26 September 2014, 30/26 of 2 October 2015, 33/29 of 30 September 2016, 35/33 of 23 June 2017 and 36/30 of 29 September 2017, in which the Human Rights Council called upon the international community to support the national efforts of the Democratic Republic of the Congo and its institutions with a view to improving the situation of human rights and to respond to its requests for technical assistance,

Taking note of the report of the United Nations High Commissioner for Human Rights on the human rights situation and the activities of the United Nations Joint Human Rights Office in the Democratic Republic of the Congo,[1] submitted to the Human Rights Council in accordance with its resolution 36/30,

Taking note also of the joint communiqué issued by members of the United Nations Security Council and the African Union Peace and Security Council of 19 July 2018, in which they reiterated that effective, swift and sincere implementation of the agreement of 31 December 2016, including confidence-building measures and respect for fundamental rights and the electoral timeline, were essential for a peaceful and credible electoral process, a democratic transition of power, and the peace and stability of the Democratic Republic of the Congo,

[1] A/HRC/39/42.

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Noting the progress made by the armed forces of the Democratic Republic of the Congo in preventing and ending the recruitment and use of children, which has resulted in its removal from the list for this violation contained in the annual report of the Special Representative of the Secretary-General for Children and Armed Conflict,[2]

Noting with concern the report published on 19 March 2018 by the Office of the United Nations High Commissioner for Human Rights and the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo, which documented killings and other serious human rights violations owing to the excessive use of force against protest movements between January 2017 and January 2018,

Deeply concerned about the violations of civil and political rights, particularly the freedoms of expression and peaceful assembly, committed by State actors in the context of important electoral events,

Expressing its concern at the number of cases of rape and other forms of conflict-related sexual violence perpetrated against women and children,

Welcoming the report of the Joint Commission of Inquiry established by the authorities of the Democratic Republic of the Congo to investigate allegations of violations and abuses committed on 31 December 2017 and 21 January 2018,

Deeply concerned about the humanitarian consequences of the violence affecting civilian populations, particularly children and women, which have led to a significant increase in the number of internally displaced persons and persons in need for humanitarian assistance,

Recognizing the important role of the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo and the United Nations Joint Human Rights Office in the Democratic Republic of the Congo in documenting human rights violations and abuses and in improving the situation of human rights in the country,

Noting the efforts made in the region, in particular by the Southern African Development Community, the African Union, the International Conference on the Great Lakes Region and the Economic Community of Central African States, aimed at contributing to peace and stability in the Democratic Republic of the Congo,

Noting also, on the one hand, the progress made in the fight against impunity for perpetrators of sexual violence and in victims' access to justice for the reparation of harm suffered, including through the establishment, by the Office of the Personal Representative of the Head of State tasked with fighting against sexual violence and the recruitment of children, of a helpline for victims of sexual violence, which contributes to the fight against impunity, and, on the other hand, the adoption by the Government of a plan of action for the national police to fight against sexual violence and to ensure the protection of children,

Noting further the efforts of the Democratic Republic of the Congo to implement its commitments under the Peace, Security and Cooperation Framework for the Democratic Republic of the Congo and the Region, signed in Addis Ababa on 24 February 2013,

Welcoming the progress made by the Democratic Republic of the Congo in advancing the electoral process with a view to holding the legislative and presidential elections in December 2018,

1. *Condemns* unequivocally all acts of violence, especially in conflict-affected areas of the country, and all perpetrators, and urges all stakeholders to reject any kind of violence, to exercise maximum restraint in their actions in order to avoid further inflaming the situation, and to settle their disputes peacefully;

2. *Notes with satisfaction* the efforts made by the Government of the Democratic Republic of the Congo to bring perpetrators to justice, and welcomes the convictions already pronounced;

[2] A/HRC/37/47.

3. *Notes* the resumption, since 27 August 2018, of the trial of the alleged killers of two United Nations experts and the persons accompanying them in March 2017;

4. *Emphasizes* the individual responsibility of all stakeholders to act in strict compliance with the rule of law and human rights, and urges all stakeholders to reject any form of violence;

5. *Encourages* the Government of the Democratic Republic of the Congo to respect the rule of law and to continue its efforts to respect, protect and ensure the enjoyment of human rights and fundamental freedoms by all, in accordance with the international obligations of States;

6. *Recalls* that the primary responsibility to protect all civilians within its territory lies with the Government of the Democratic Republic of the Congo, and urges it to exercise maximum restraint and use proportionate and lawful force in its efforts to restore order, in accordance with international law;

7. *Commends* the Democratic Republic of the Congo for the accreditation of its National Human Rights Commission with category A status, in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles);

8. *Notes with appreciation* the progressive operationalization of the National Human Rights Commission, the adoption of its five-year strategic plan and the release of its first annual report, and calls upon the Government to ensure that the Commission is independent, including with regard to its funding, so as to ensure full compliance with the Paris Principles;

9. *Reaffirms* its strong commitment to respect fully the principles of non-interference in the internal affairs of States, including strict respect for the sovereignty, independence, unity and territorial integrity of the Democratic Republic of the Congo;

10. *Encourages* the Government of the Democratic Republic of the Congo to intensify its efforts to put an end to violence on its territory, with the support of the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo, within its mandate, and to cooperate fully with the Group of Experts on the Democratic Republic of the Congo established pursuant to Security Council resolution 1533 (2004), including to allow complete and unhindered access to the country;

11. *Also encourages* the Government to continue actively its efforts, with the support of the international community, to end impunity for the perpetrators of these grave human rights violations and abuses, and violations of international humanitarian law, and to ensure that victims of such violations, abuses and related crimes receive adequate reparations;

12. *Commends with appreciation* the fulfilment of the commitment made by President Joseph Kabila to abide by the Constitution and laws of the Democratic Republic of the Congo regarding the holding of elections;

13. *Welcomes* the positive developments in the electoral process in the Democratic Republic of the Congo, and in this regard notes the significant progress made by the Independent National Electoral Commission, including the revision of the electoral register and its audit by the International Organization of la Francophonie, the opening of offices for filing and processing candidatures and subsequent registration of candidatures for the legislative and presidential elections, the publication, on 24 August 2018, of the provisional lists of candidates for the presidential and legislative elections and the publication of the final lists of candidates in these various elections;

14. *Urges* the Independent National Electoral Commission to carry through the steps that remain up to the actual holding of the elections;

15. *Welcomes* the efforts made by the United Nations, the International Organization of la Francophonie and the European Union to ensure the credibility and the stabilization of the electoral roll;

16. *Also welcomes* the establishment by the Government of the Democratic Republic of the Congo of an interministerial commission to monitor the implementation of the Convention on the Rights of Persons with Disabilities in the context of the implementation of its five-year (2016–2021) plan for the protection of the rights of persons with disabilities, adopted on 20 and 21 May 2016;

17. *Underlines* the centrality of the agreement of 31 December 2016 and the necessity of its full implementation, to pave the way for the timely holding of elections in the Democratic Republic of the Congo, and urges Congolese stakeholders to redouble their efforts to prepare for the timely holding of free, fair, peaceful and credible presidential and legislative elections, in accordance with the provisions of the agreement of 31 December 2016, and in parallel to take additional confidence-building measures, in accordance with the agreement, in order to create an environment conducive to the completion of the electoral process;

18. *Welcomes* the enactment, on 10 March 2017, of the law amending the Code of Military Justice for the implementation of the Rome Statute of the International Criminal Court, and notes the validation, in May 2017, of the justice reform plan, prepared in accordance with the recommendations made at the conference convened in 2015 on the development of justice sector reform;

19. *Stresses* the need to release all persons improperly detained, including human rights defenders, and to grant the United Nations Joint Human Rights Office access to the centres under the responsibility of the National Intelligence Agency;

20. *Requests* all stakeholders in the electoral process to refrain from all forms of violence and any discourse inciting racial, tribal or ethnic hatred;

21. *Encourages* the Government of the Democratic Republic of the Congo to ensure that all citizens, regardless of their political affiliation, can participate freely in public affairs and fully enjoy human rights and fundamental freedoms, in particular the freedoms of expression and peaceful assembly;

22. *Invites* the Government of the Democratic Republic of the Congo to improve and increase the participation of women in the political and administrative domains, and notes with appreciation the legislative measures already taken within the framework of the amendments to the Family Code and the law on the parity of men and women;

23. *Calls upon* the Government and all relevant institutions of the Democratic Republic of the Congo to take all additional measures necessary to prevent all violations of international humanitarian law and abuses of human rights in the Democratic Republic of the Congo, and to conduct thorough investigations into all acts of violence and violations of international humanitarian law and abuses of human rights so that all perpetrators are brought to justice;

24. *Encourages* the Interministerial Commission to continue its monitoring of the implementation of the Convention on the Rights of Persons with Disabilities;

25. *Encourages* the Government of the Democratic Republic of the Congo to continue in its commitment to its cooperation with the Office of the United Nations High Commissioner for Human Rights, the United Nations Joint Human Rights Office, and the Human Rights Council and its special procedures;

26. *Also encourages* the Government to maintain and strengthen its efforts to pursue the reform of the security sector and of the judicial system, including by establishing the remaining superior courts of appeal, and to reform and strengthen its penitentiary system;

27. *Further encourages* the Government to take appropriate measures to ensure the smooth functioning of all implementing agencies of human rights, including the Human Rights Liaison Unit, the National Human Rights Commission, the Interministerial Committee on Human Rights, the National Commission for the Universal Periodic Review and the Unit for the Protection of Human Rights Defenders;

28. *Encourages* the Government to organize a forum on human rights, in particular on the impact of technical assistance by the international community to the Democratic Republic of the Congo;

29. *Requests* the United Nations High Commissioner for Human Rights to present to the Human Rights Council, in an enhanced interactive dialogue, an oral update on the situation of human rights in the Democratic Republic of the Congo at its forty-first session;

30. *Also requests* the High Commissioner to prepare a report on the situation of human rights in the Democratic Republic of the Congo before, during and after the elections of 23 December 2018, and to submit it to the Human Rights Council, within the framework of an enhanced interactive dialogue, at its fortieth session, and to prepare a comprehensive report on the situation of human rights in the Democratic Republic of the Congo, and to submit it to the Council, within the framework of an enhanced interactive dialogue, at its forty-second session;

31. *Decides* to remain seized of the situation until its forty-second session.

41st meeting
28 September 2018

[Adopted without a vote.]